

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 22.03.2019

Coram

The Honourable Mr. Justice D.KRISHNAKUMAR

Contempt Petition No.2245 of 2017

Natesa Thamilzharvan,
President,
Needamangalam Taluk,
Co.Op. Housing Society Ltd.,
Vadakku Street,
Olimathi Post,
Needamangalam Taluk,
Tiruvarur District.

...Petitioner

Versus

Thiru.S.Sampathkumar
Deputy Registrar (Housing),
Public Distribution System,
Daniel Thomas Nagar,
Thanjavur.

...Respondent

This Contempt Petition is filed under Section 11 of Contempt of Courts Act praying to initiate contempt proceedings against the respondent for the willful disobedience of the order issued by this Court in W.P.No.6556 of 2016 dated 06.09.2017.

For Petitioner : Mr.D.Bharathy

For Respondent : Mr.L.P.Shanmugasundaram,
Special Government Pleader

O R D E R

The petitioner has filed this Contempt Petition to initiate contempt proceedings against the respondent for not complying with the order passed by this Court in W.P.No.6556 of 2016 dated 06.09.2017.

2.1. The petitioner is the President of Needamangalam Taluk Co-Operative Housing Society Ltd., and Union Secretary of CPI party and also working for the welfare of common people by exposing their grievances to the concerned authority and getting relief for them.

2.2. While so, proceedings have been initiated against the petitioner under Section 81 of T.N.Co-operative Society Act (hereinafter referred to as 'Act'). Challenging the same, the petitioner filed a Writ Petition before this Court in W.P.No.26740 of 2015 and the same was disposed by order dated 27.08.2015 directing the Registrar (Housing), Nandhanam, Chennai - 600 035 to furnish the details as sought for by the petitioner. Despite the said order dated 27.08.2015, Regional Joint Registrar (Housing) Tanjavur has not furnished such details to the petitioner. Therefore, the petitioner filed another Writ Petition in W.P.No.31741 of 2015 and the same was disposed by this Court vide order dated 08.10.2015 directing the Regional Joint Registrar (Housing) Tanjavur to peruse the documents

which formed the basis for initiation of proceedings under Section 81 of the Act. Pursuant to the said order dated 08.10.2015, the petitioner was called for enquiry on 08.01.2016 & 22.01.2016. But the Regional Joint Director (Housing) Tanjavur has not furnished such documents but only showed him the records that were seized from the society, viz., General Ledger, Cash Receipt Books etc.,

2.3. Despite of the directions given by this Court in its orders dated 27.08.2015 & 08.10.2015, the respondent had not complied with the aforesaid orders and again, the petitioner filed Writ Petition in W.P.No.4925 of 2016 for the very same relief already sought for in W.P.Nos.26740 & 31741 of 2015 and this was also disposed by this Court vide order dated 10.02.2016. However, in the meantime, the petitioner was disqualified under Section 36 of the said Act. Challenging the said disqualification order, the petitioner has filed a Writ Petition in W.P.No.6556 of 2016 and the same was allowed on 06.09.2017 whereby the such disqualification order was quashed and the matter was remitted to the respondent for fresh consideration by permitting the petitioner to peruse the records, in compliance with the earlier order in W.P.No.4925 of 2016 dated 10.02.2016, and thereafter, to pass orders on merits and in accordance with law, after providing opportunity to the petitioner. But without providing opportunity to the petitioner to peruse the records, the respondent has filed

the complaint dated 02.11.2017 before the Commercial Crime Investigation Wing, Tiruvarur District. So far the respondent has not complied with the order of this Court dated W.P.No.6556 of 2016.

3. The learned counsel appearing for the petitioner submitted that the respondent has not even complied with any order of this Court and this kind of lethargic attitude on the part of the respondent amounts to contempt of Court and therefore, prayed that this Court has to take appropriate action against the respondent for such disobedience.

4. The learned Special Government Pleader appearing for the respondent by drawing the attention of this Court to the counter affidavit filed by the respondent submitted that pursuant to the order of this Court in W.P.No.6556 of 2016 dated 06.09.2017, the petitioner has perused the records on 25.01.2018 at 12:00 p.m. On that date, the petitioner has perused the day book, in which, the signatures were not found and some of the signatures found in it were not the signatures of the petitioner and he has stated that cash books were not shown to him. But the petitioner has accepted that he perused the EPF Register. However, Deputy Registrar (Housing) Thanjavur vide

<https://hcservices.ecourts.gov.in/hcservices/> Ir. Bc. 988/2015 SF dated 25.01.2018, it has stated that the cash receipts submitted by certain members (Cash Receipt

Nos.14532, 14527, 14534, 12537, 14538, 14539, 14544, 14545, 14547, 14550, 14542, 14535, 14536 & 7480) were shown to the petitioner but he refused to peruse the receipts and now the petitioner alleges that the cash receipts were not shown to him. The learned Special Government Pleader further submitted that in spite of the production of records for perusal, the petitioner has filed the present contempt petition with a false allegation that the cash receipts were not shown to him.

5. On contrary to the submission made by the learned Special Government Pleader for respondent, the petitioner's counsel submitted that the original cash receipts were not shown to the petitioner only the copies of the cash receipts were shown to the petitioner. He further argued that the signatures found in the cash receipts were not the signatures of the petitioner. Hence, the petitioner disputed the signatures found in the cash receipt.

6. It is seen that the dispute is with regard to the signatures found in the cash receipts. According to the respondent, they have shown the original cash receipts to the petitioner for perusal. However, the same is disputed by the petitioner. Therefore, it is clear that the respondent in compliance of the Court order has shown the

<https://hcservices.ecourts.gov.in/hcservices> so it would not amount to disobedience of the order of this Court as alleged by the petitioner.

Therefore, *prima facie* no contempt is made out against the respondents.

7. For the reasons stated hereinabove, the respondent is discharged from the contempt proceedings and consequently, this Contempt Petition is closed.

mrr

SD/-
ASSISTANT REGISTRAR (COMM.CASES)

//Certified to be true copy//

Dated at Madras this the day of 2019.

COURT OFFICER (O.S.)

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